

Senate Bill No. 328

Passed the Senate September 12, 2003

Secretary of the Senate

Passed the Assembly September 11, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 68130.5 and 76300 of, and to add Section 66021.6 to, the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, Escutia. Student financial aid: eligibility.

(1) Existing law requires that a person, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed a prescribed affidavit, is exempted from paying nonresident tuition at the California Community Colleges and the California State University.

Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education.

This bill would require the Board of Governors of the California Community Colleges to establish procedures and forms that enable persons who are exempt from paying nonresident tuition at the California Community Colleges under the provision described above, to apply for, and participate in, all student aid programs and services administered by that segment to the full extent permitted by federal law.

The bill would provide that a person, other than a nonimmigrant alien as defined, who has attended and graduated from secondary school, rather than high school, in California, is exempt from paying nonresident tuition at the California Community Colleges and the California State University.

The bill would also require that a person meeting these requirements is exempt from nonresident admissions criteria, as defined.

(2) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the



California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction, for prescribed fees in the amount of \$18 per unit per semester, at community college campuses throughout the state. Existing law authorizes the waiver of these fees for, among others, students who are eligible under income standards established by the board of governors.

This bill would provide that persons who are exempt from nonresident tuition under the provision described in (1) above may receive the fee waiver under this provision.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Some students cannot apply for financial aid in the traditional manner, through completion of the Free Application for Federal Student Aid (FAFSA), because they do not have the legal immigration status necessary for federal processing of the application.

(b) Section 66021.6 of the Education Code, as added by Section 2 of this act, does not grant these pupils any advantage over the student population as a whole in determining who qualifies for, or receives, financial aid.

(c) Increased access to financial aid for all students in California's universities and colleges increases the state's collective productivity and economic growth.

(d) Undocumented persons who are exempt from nonresident tuition pursuant to Section 68130.5 of the Education Code are in a unique situation due to their residency status, and therefore they require increased attention so they may fulfill their academic goals.

SEC. 2. Section 66021.6 is added to the Education Code, to read:

66021.6. Notwithstanding any other provision of law, the Board of Governors of the California Community Colleges shall establish procedures and forms that enable persons who are exempt from paying nonresident tuition under Section 68130.5 to apply for, and participate in, all student aid programs and services



administered by that segment to the full extent permitted by federal law.

SEC. 3. Section 68130.5 of the Education Code is amended to read:

68130.5. Notwithstanding any other provision of law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition, and exempt from nonresident admission criteria, at the California State University and the California Community Colleges:

(1) Secondary school attendance in California for three or more years.

(2) Graduation from a California secondary school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(5) As used in this subdivision, “nonresident admissions criteria” include, but are not necessarily limited to, grade point average and standardized test score levels that are factors in admissions decisions.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

(e) No person shall qualify for financial aid under this section unless and until all persons who meet the criteria of this section can



be provided with financial aid eligibility in a manner consistent with federal law.

SEC. 4. Section 76300 of the Education Code, as amended by Section 29 of Chapter 227 of the Statutes of 2003, is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be eighteen dollars (\$18) per unit per semester, effective with the fall term of the 2003–04 academic year.

(2) The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the chancellor shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.



(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. “Active service of the state,” for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:



(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(l) (1) “Dependent,” for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive, for determination of financial need and delivery of student financial

aid services, on the basis of the number of students for whom fees are waived. Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992–93 fiscal year.

(n) A person who is exempt from paying nonresident tuition under Section 68130.5, and who otherwise qualifies for a waiver under this section, may receive the waiver. The Legislature finds and declares that this subdivision is a state law within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(o) The board of governors shall adopt regulations implementing this section.



Approved _____, 2003

Governor

